IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4853 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MULCHANDBHAI HIRABHAI LEUVA

Versus

LIFE INSURANCE CORPORATION OF 3RD SPECIAL LAND ACQUISITION

Appearance:

MR SHALIN MEHTA for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/02/2001

ORAL JUDGEMENT

#. Heard the learned counsel for the petitioner.

#. More than what it was necessary, lenient view has been taken in the case of awarding of penalty to the petitioner. It is a clear case of negligence of the

petitioner as a result of which the Corporation suffered the loss of Rs.11,842-21. Chargesheet has been given and in the inquiry, charge of negligence of the petitioner has been proved. It was a case of monetary loss suffered by the Corporation due to the negligence of the petitioner and rightly order has been made for making good of this loss by the petitioner.

#. Learned counsel for the petitioner raised the only contention that the inquiry has been conducted in this case in English and the petitioner does not know that language and as a result of which, serious prejudice has been caused to him.

#. In case it would have been really a case of causing prejudice then at the very initial stage this objection should have been raised by the petitioner. It is alleged that the petitioner raised this objection in the inquiry but that is not enough. The petitioner should have approached to the Disciplinary Authority. Against the order of penalty, the petitioner filed an appeal but the memo of appeal has not been produced. On being asked by the court, learned counsel for the petitioner submits that he is not in a position to say whether this objection has been raised by the petitioner before the Appellate Authority or not. The petitioner also has not averred in the special civil application, as what the learned counsel for the petitioner admits, that this grievance has been made by the petitioner in the memo of appeal before the Appellate Authority. In these facts, it is difficult to accept that this grievance would have been made by the petitioner before the Appellate Authority. When this has not been done, this plea cannot be entertained, at this stage, under Article 226 of the Constitution of India. Otherwise also, the petitioner has permitted the inquiry to be completed and when it culminated in the order of punishment, he has not challenged the same on the ground what it is contended before this Court but after decision has been given by the Appellate Authority, while challenging that decision this point has been raised and this is nothing but only an afterthought and it cannot be permitted to be raised. The Appellate Authority has acted very reasonably in this matter and penalty as imposed by the Disciplinary Authority has been reduced. It is different matter that still the petitioner is not satisfied.

#. In the result, this petition fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

****

zgs/-